

1 THE HONORABLE MARSHA PECHMAN
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7 IN THE UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 THOMAS E. HORNISH AND SUZANNE J.
11 HORNISH JOINT LIVING TRUST, TRACY AND
12 BARBARA NEIGHBORS, ARUL MENEZES AND
13 LUCRETIA VANDERWENDE, LAKE SAMMAMISH
14 4257 LLC, HEBERT MOORE AND ELYNNE
15 MOORE, AND EUGENE MOREL AND ELIZABETH
16 MOREL,
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Case No.: 2:15-cv-00284-MJP

**JOINT STATUS REPORT AND
DISCOVERY PLAN**

18 Plaintiffs,

19 vs.

20 KING COUNTY, a home rule charter county,

21 Defendants.

22 Counsel for the parties have met and conferred regarding a plan for discovery. Plaintiffs,
23 by and through their attorneys of record, Daryl Deutsch, Thomas S. Stewart and Elizabeth Gepford
24 McCulley, and Defendant King County, by and through its attorneys of record, David J. Hackett
25 and Andrew W. Marcuse, , submit the following joint status report and discovery plan.

1. Statement of Nature and Complexity of Case. Plaintiffs' Amended Complaint
seeks a declaratory judgment that "the railroad only acquired an easement for railroad purposes
over and through Plaintiffs' land and King County, by the Quit Claim Deed from BNSF, only

1 acquired a surface easement for a hiking and biking trail with the possible reactivation of a railroad
2 by and through the Trails Act.” Defendant King County has filed their answer with a counter-
3 claim also seeking declaratory judgment and to quiet title in the railroad corridor.
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5 2. Proposed Deadline for Joining Additional Parties. The parties propose December
6, 2015 as the deadline for joining additional parties.

7 3. Consent to Use of Magistrate. No.

8 4. Discovery Plan.

9 (A) Initial Disclosures. The parties exchanged initial disclosures on September
10 23, 2015.

11 (B) Subjects, Timing, and Potential Phasing of Discovery. Discovery by
12 Plaintiff will include, but not be limited to, interrogatories, requests for production of
13 documents, requests for admissions, and depositions. Defendant’s discovery will include,
14 but not be limited to, interrogatories, requests for production of documents, requests for
15 admissions, and depositions

16 The most efficient method for resolving this litigation is to allow the parties to
17 conduct discovery in the normal fashion and file motions for summary judgment as they
18 see fit.

19 (C) Electronically Stored Information. The parties do not expect that discovery
20 in this matter will involve unusual amounts of electronically-stored information.

21 (D) Privilege Issues. The parties do not expect any unusual privilege issues to
22 arise during discovery. The parties will attempt in good faith to resolve any privilege-
23 related issues that arise cooperatively and without intervention by the Court.

24 (E) Proposed Limits on Discovery. The parties do not request any proposed
25 limits on discovery at this time.

(F) The Need for Any Discovery-Related Orders. At this time, the parties do not expect to seek a protective order.

5. Local Civil Rule 26(f)(1).

(A) Prompt Case Resolution. The parties do not believe there is a strong likelihood of promptly settling or otherwise resolving this case without court intervention.

(B) Alternative Dispute Resolution. See response to 5(A) above, but the parties will consider and comply with local rules and the possibility of alternative dispute resolution as the litigation progresses.

(C) Related Cases. This case is related to *Tracy Neighbors, et al. v. King County*, Case No. 2:15-cv-01358 currently pending before this Court.

(D) Discovery Management. The parties have agreed to manage discovery to promote the expeditious and inexpensive management of this case. The parties agree to electronic service of process under Fed. R. Civ. P. 5(b)(E).

(E) Anticipated Discovery Sought. See response to 4(B).

(F) Phasing of Motions. The parties propose that discovery should be conducted in the normal fashion and that the parties shall file motions for summary judgment as they see fit. Discovery and summary judgment motions may address continuing standing objections made by the Defendant, the interpretation of original source conveyances to the railroad, including deeds and prescriptive easement issues, title issues, and the interpretation of the Trails Act.

(G) Preservation of Discoverable Information. The parties do not foresee any issues arising in this regard.

(H) Privilege Issues. The parties do not expect any unusual privilege issues to arise during discovery. The parties will attempt in good faith to resolve any privilege-related issues that arise cooperatively and without intervention by the Court.

(I) Model Protocol for Discovery of ESI. The parties do not agree to adopt the Western District of Washington's Model Protocol for Discovery of ESI, as they do not believe that it will be necessary in this case.

(J) Alternatives to Model Protocol. N/A.

6. Proposed Date By Which Discovery Can Be Completed. The parties believe that all discovery can be completed by July 31, 2016.

7. Bifurcation. The parties do not believe that the case should be bifurcated in any fashion.

8. Potential for Dispensing with Local Civil Rules 16(e), (h), (i), and (k). The parties do not agree to dispense with the above-referenced Local Civil Rules at this time.

9. Individualized Trial Program. The parties do not intend at this time to utilize the Individualized Trial Program set forth in Local Civil Rule 39.2. The parties may be amenable to mediation pursuant to Local Civil Rule 39.1(c).

10. Other Suggestions for Shortening or Simplifying the Case. To the extent reasonably possible, the parties will agree to stipulate to facts that are not genuinely in dispute. Further, the parties expect to file motions for summary judgment that may aid the parties and the Court in shortening or simplifying the trial of this matter.

11. Proposed Trial Date. The parties believe this case will be ready for trial by November 28, 2016.

1 12. Whether the Trial will be Jury or Non-Jury. This case will not be tried by a jury.

2 13. Length of Trial. The parties presently believe the trial of this case will take
3 approximately 10 trial days.

4 14. Names, Addresses, and Telephone Numbers of Trial Counsel.

5 **Counsel for Plaintiff:**

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20 **Counsel for Defendant:**

21 David J. Hackett
22 Andrew W Marcuse
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25 Seattle, WA 98104-5039

26 15. Potential Scheduling Conflicts for Trial Counsel. None at this time.

27 16. Status of Service. All defendants in this matter have been served.

28 17. Scheduling Conference. The parties do not request a scheduling conference prior
29 to entry of a scheduling order in this case.

18. Filing of Corporate Disclosure Statements. Plaintiff filed its Corporate Disclosure Statements on September 22, 2015.

19. Consent to Pilot Project on Cameras in the Courtroom. The parties do not elect to participate in the Pilot Project on Cameras in the Courtroom at this time.

DATED this 30th day of September, 2015.

Respectfully submitted by:

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